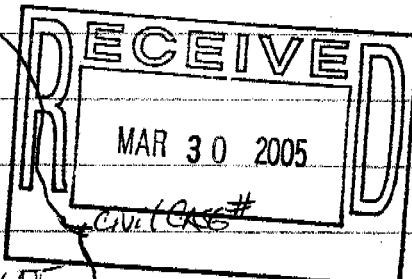


## District of Massachusetts

Geraldo A. Melchor-Gonzalez

Petitioner Pro Se,

vs

U.S. DEPARTMENT OF HOMELAND SECURITY,  
IMMIGRATION AND CUSTOMS ENFORCEMENT  
AGENCIES AND AGENTS THE

05-100-03-177-11

Motion for an Expedited Ruling Pursuant

To Supreme Court decision in CLARK V. MARTINEZ,  
125 S.Ct. 716 (2005) and this Court decision in  
CANIZARES V. ASHCROFT, C.A. No. 03-11574-NC

Now comes, Geraldo A. Melchor-Gonzalez, Petitioner pro se, and respectfully requests this Honorable Court to issue and expedite a ruling granting Petitioner's immediate release from custody pursuant to the United States Supreme Court decision in CLARK V. MARTINEZ supra, and this Court decision in CANIZARES V. ASHCROFT, supra. In support of said motion, the Petitioner states as follows:

1) Like both, Martinez and Canizares, the Petitioner is a "Mariel Boatlift" Cuban National Parolee who came into the United States on May 27, 1980.

2) Similar, because of his drug convictions, Petitioner

case found inadmissible in Removal Proceedings and was ordered removed to Cuba by the Immigration Court in 2002. The order became final on June 10, 2002.

3) Like Martinez and Canizares, after completion of his state prison sentence on July 19, 2004, ICS; Respondent took petitioner into custody pending his removal to Cuba.

4) Because the 90-day removal period and the six months presumptively reasonable detention period have long passed, as petitioner has been held for over 8 months today, and heralds of the government's own admission in Martinez that it no longer is involved with repatriation negotiations with Cuba, removal is not reasonably foreseeable like so found by both, the Martinez court, and this court in Canizares.

Wherefore, for the reasons stated above herein, the petitioner prays and respectfully request that this honorable court;

1) issue an order consistent with its order issued in Canizares v. Ashcroft, C.A. No. 03-11574-NG, and order the immediate release of petitioner subject to reasonable conditions of release.

2) Grant any other relief as this Court deems just and proper.

Respectfully Submitted  
G. Grunley  
Geraldo A. Melchor-Gonzalez

"Certification"

I hereby certify that a copy of this Motion was today mailed to: Frank Crowley, Special Asst. U.S. Attorney, Department of Homeland Security, P.O. Box 8728, JFK Station, Boston, MA, 02114.

Respectfully,  
G. Grunley  
Geraldo A. Melchor-Gonzalez

DATE: 3-28-08

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ELOY CANIZARES, )  
Petitioner, )  
 )  
v. ) C.A. No. 03-11574-NG  
 )  
JOHN ASHCROFT, Attorney General )  
for the United States, et al., )  
Respondents. )  
GERTNER, D.J.:

ORDER FOR IMMEDIATE RELEASE OF DETAINEE

Pursuant to the United States Supreme Court decision in Clark v. Martinez, S.Ct., 2005 WL 50099 (2005), petitioner's motion to lift the stay and for immediate conditional release [document # 16] is hereby **GRANTED**. Petitioner has been in INS detention at the Bristol County Sheriff's Office in North Dartmouth, Massachusetts, since February 7, 2003. Because the 90-day removal period and the six-month presumptively reasonable detention period have long passed, and because removal is not reasonably foreseeable, respondents are **ORDERED TO RELEASE ELOY CANIZARES** immediately subject to reasonable conditions of release.

SO ORDERED.

Dated: January 21, 2005

s/ NANCY GERTNER U.S.D.J.

United States District Court  
District of Massachusetts

Geando L. Medero-Gonzalez  
Petitioner

v.

U.S. DEPARTMENT OF HOMELAND SECURITY,  
IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEBTOR AND DEBTORS.

"Motion To Proceed in forma Pauporis"

PETITIONER, GEANDO L. MEDERO-GONZALEZ, hereby Respectfully  
Moses this Court To Waive Any and All Filing Fee in  
The Above Captioned Matter, And allow PETITIONER TO  
Proceed in forma Pauporis. In Support of This Motion,  
PETITIONER Alleges as Follows:

- 1) PETITIONER declares that he, Geando L. Medero  
Gonzalez, is the Petitioner in the above-captioned  
MATTER AND IS AT THE PRESENT TIME, UNABLE TO PAY  
THE COST OF THESE PROCEEDINGS AND HE IS ENTITLED  
TO THE RELIEF SOUGHT IN THE COMPLAINT. HABEAS  
Petition, as he is a Marsh Cuban Native held  
in DETENTION FOR OVER 8 MONTHS.
- 2) PETITIONER IS CURRENTLY INCARCERATED AT THE  
Plymouth County Correctional Facility in Plymouth  
MASSACHUSETTS ON UNLAWFUL IMMIGRATION DETENTION.

3) Petitioner is NOT Employed at the INSTITUTION, Nor can he be Employed because he is AN IMMIGRATION DETAINEE.

4) Petitioner has been INCARCERATED for over 8 years and 7 months total. Petitioner was TRANSFERRED to the Plymouth Correctional Facility on December 2, 2004 from Concord, New Hampshire STATE Prison where he SERVED AND COMPLETED his STATE Prison SENTENCE. However, Petitioner CANNOT OBTAIN his Ledger Sheet from Said STATE Prison showing at LEAST his PAST 6 months there.

5) Petitioner was Allowed to Proceed in forma Pauperis in the New Hampshire Federal District Court based on his FINANCIAL AFFIDAVIT Filed in his WRIT of HABEAS CORPUS Filed on or About October 13, 2004, DOCKET NUMBER 04-385-B, incl his INSTITUTIONAL Ledger Sheet.

6) Included herin PLEASE find a FINANCIAL AFFIDAVIT.

7) The Petitioner have NO Means FINANCIALLY to Pay the REQUIRED FEED OF \$250.00, as not only is the Petitioner INCARCERATED under INS DETENTION, and the Petitioner has BEEN INCARCERATED (2)

For over 8 years and 7 months, but, Petitioner is not even allowed to work for any pay fee at this facility due to his IMMIGRATION DETAINEE STATUS.

Wherefore, The Petitioner prays that this Honorable Court Grant the following Relief;

- 1) Grant Petitioner's Motion to Proceed in forma Propria;
- 2) Grant the Petitioner's Request for a writ of Mandamus, or Extraterritorial writ, and Order his IMMEDIATE RELEASE from his UNLAWFUL and UNCONSTITUTIONAL Continued IMMIGRATION Post-Removal DETENTION over 7 months pursuant to the United States Supreme Court Order and decision in CLARK V. MARTINEZ, 125 S. Ct. 716, 723 (2005); Zadvydas V. DAVIS, 533 U.S. 678, 694 (2001), and Wing V. United States, 163 U.S. 228, 238 (1896). And;
- 3) GRANT any other and further Relief which this Court deems Just and Proper.

Respectfully Submitted  
Gonzalez

GERALDO A. MEDERO - GONZALEZ #37057  
P.C.L.F., 26 Long Pond Rd.  
Plymouth, Massachusetts, 02360

**FINANCIAL AFFIDAVIT**  
**In Support of a Motion to Proceed In Forma Pauperis**

Case Name: Guadalupe Madero-Gonzalez v. U.S. Dept. Homeland Security

Docket Number: \_\_\_\_\_

**EMPLOYMENT**

Are you now employed? Yes  No  Self Employed

Name & Address of Employer: None

If YES, how much do you earn per month? \$ 0

If NO, give month & year of last employment July 1996

How much did you earn per month? \$3000 - \$5000 COMMISSION WORK

If married, is your spouse employed? Yes  No

If YES, how much does your spouse earn per month? \$ None

If a minor under age 21, what is your parents' or guardian's approximate monthly income?  
\$ None

**OTHER INCOME**

Have you received in the past 12 months any income from a business, profession, or other form of self-employment, or in the form of rent, payments, interest, dividends, retirement or annuity payments, or other sources? Yes  No

If YES, give the amount received and identify sources:

Received

0

Sources:

0

**CASH**

Have you any cash on hand or money in savings, a prisoner trust fund account or checking account? Yes  No

If YES, state total amount \$ 0

**PROPERTY**

Do you own any real estate, stock, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing?)  Yes  No  
If YES, give value and describe it:

Value	Description
<u>0</u>	<u>0</u>

**DEPENDENTS**

Marital status:  Single  Married  Widowed  Separated or Divorced Total No. of Dependents: 1

List persons you actually support & your relationship

While I was at the State Prison I helped in the Support of my Son Jerry Joseph Gonzalez

**DEBTS & MONTHLY BILLS**

List all creditors, including banks, loan companies, charge accounts, etc.

Creditors:	Total Debt:	Monthly Payment:
Apt. or Home: <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>

I certify the above to be correct.

G. Jerry J.  
Signature of movant 3-28-05  
Date

**WARNING:** A false or dishonest answer to a question in this affidavit may be punishable by fine, imprisonment, or both.